IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5650 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KHAMBHALIA NAGARPALIKA

Versus

MAJOR SEVA SANGH

Appearance:

MR MANOJ N POPAT for Petitioner No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 23/07/2001

ORAL JUDGEMENT

The present petition is filed by Khambaliya Nagar Palika against the order passed by the Labour Court, Jamnagar dated 20.3.2001, whereby an order is passed by affixing a rubber stamp, which reads as under:

"Order

The applicant's representative is present. The applicant's representative seeks permission to withdraw this case on the condition that he should be allowed an amount of expenses. On the condition that the opponent shall pay a sum of Rs.500/-, towards expenses of the representative of the applicant, permission to withdraw the case is granted."

In the rubber stamp columns meant for amount and date are kept blank. Thereafter, the order is passed.

2. In para 2.4 of the petition, the petitioner gave numbers of as many as 11 cases, whereby similar orders were passed awarding cost of Rs.500/-. Learned advocate, Mr.Popat submitted that if at all the applicant through its representative wants to withdraw the case, the opponent Nagarpalika cannot have any objection to that. But granting permission to withdraw the case with an order to the effect that the opponent Nagarpalika shall pay cost of Rs.500/-, (in this case as well as in the cases which are listed in para 2.4), is not legal and proper. Not only that for that there are no valid reasons given by the learned Judge of the Labour Court. On perusal of papers also, this Court is not able to find out as to on what ground such an order is required to be passed not in one case which may have some exceptional circumstances, but is passed in number of cases.

3. Mr.Popat, learned advocate for the Municipality invited attention of this Court to the withdrawal purshis at Annexure 'C', page 13. Said Purshis also does not disclose any reason for which cost is prayed for from the Municipality. The purshis reads only as under:

"The application of the representative of the applicant is that he does not want to proceed further with the case and that he is withdrawing the case. An order may be passed towards expenses of the representative for a sum of Rs.1000/-.

4. The practice seems to be quite curious to this Court, more particularly when there is no basis for making such an order, the order passed by the Labour Court is totally unwarranted and devoid of any merit and in addition it is not supported by any provisions of law.

5. On the contrary it is clear from the copy of application, which is produced at Annexure 'A' which is

given for extending the injunction order. In the matters where injunction order was granted which was also extended from time to time, as is clear from that application, it may be a matter wherein cost is required to be awarded to the Municipality, as injunction order remained in operation against the Municipality. This Court is at loss to understand as to why order of withdrawal be passed with an order that the Municipality shall pay cost of Rs.500/-, towards expenses of the representative of the applicant.

6. The order is hereby quashed and set aside.

7. It is however, made clear that if the applicant is aggrieved of this order, it may appear before this Court at its own cost and also with an understanding that in case the applicant is not able to support the order on justifiable grounds, cost may be awarded not only for proceedings before this Court, but also proceedings before the Labour Court.

8. The petition is disposed of. Direct service is permitted.

(Ravi R. Tripathi, J.)

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